

REMARKS

Claims 1 and 3-9 are pending. Favorable reconsideration is respectfully requested.

The present invention relates to pigment granules having an average particle size from 50 to 5000 μm and a BET surface area $\leq 15 \text{ m}^2/\text{g}$, consisting of

(A) from 60 to 90% by weight of at least one pigment and

(B) from 10 to 40% by weight of at least one nonionic surface-active additive based on polyethers, where component (B) comprises alkylene oxide adducts with amines or alcohols,

obtained by wet-comminution of said pigment (A) in aqueous suspension in the presence of some or all of said additive (B) and subsequent spray granulation of said suspension, if applicable after the rest of additive (B) has been added.

See Claim 1.

The rejection of the claims under 35 U.S.C. §103(a) over Nyssen is respectfully traversed. Nyssen fails to suggest the claimed pigment granules.

Nyssen discloses a method of coloring seed, seed-dressing materials, or seed-dressing material formulations with solid pigment preparations. See the Abstract.

All of the Examples described in Nyssen contain reaction products of hydrogenated castor oil and ethylene oxide, which corresponds to component (B) specified in Claim 1 of the present application. See columns 9-12 of Nyssen. Castor oil contains 80-85% of a glyceride of ricinoleic acid. Therefore, the material exemplified by the reference that corresponds to component (B) of the claimed pigment granules is an ethoxylation product of a fatty acid ester. In contrast, as specified in Claim 1, component (B) is based on alkylene oxide adducts with amines or alcohols.

Applicants submit herewith the executed Declaration of Dr. Hansulrich Reisacher. As set forth at page 1 of the Declaration, Dr. Reisacher has years of experience in the field of pigments. Dr. Reisacher has read and understood the outstanding Office Action. See the bottom of page 2 of the Declaration.

As described at page 2 of the Declaration, Pigment Preparation 1 was prepared according to Example 12 of the present application. Comparative Pigment Preparation 1C was prepared in an analogous manner, except that the hydrogenated castor oil and ethylene oxide described by Nyssen was used. The storage stability of the preparations were measured, and the results are reported in the table at the bottom of page 2 of the Declaration, reproduced below for convenience.

Pigment Preparation	CE without storage	CE after 4 days at 40°C
1	106	109
1C	150	350

Dr. Reisacher summarizes the test results as follows:

These results clearly demonstrate that the color strength of Pigment Preparation 1 according to Appl. Ser. No. 10/501,328, which is already higher than the color strength of Comparative Pigment Preparation 1C in the freshly prepared emulsion paint, remains nearly unchanged during storage whereas the color strength of the Comparative Pigment Preparation 1C radically decreases. **This is, the storage stability of the pigment preparations according to Appl. Ser. No. 10/501,328 is clearly superior to the storage stability of Nyssen's pigment preparations.** [See the paragraph bridging pages 2 and 3 of the Declaration; emphasis added.]

One would not have been able to predict this striking result directly from Nyssen. There is simply no suggestion in that reference that a nonionic surface-active additive based on polyethers, that comprises alkylene oxide adducts with amines or alcohols as claimed would produce a pigment preparation with higher storage stability as compared to an ethoxylation product of a fatty acid ester (i.e., reaction products of hydrogenated castor oil and ethylene oxide) as exemplified by Nyssen.

Thus, the experimental results are striking evidence of the non-obviousness of the claimed pigment granules over Nyssen. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claim 8 under 35 U.S.C. §112, second paragraph, is believed to be obviated by the amendment submitted above. Claim 8 has been amended for clarity. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The objection to the claims is noted. As apparent from the specification, the recited percentages by weight are based on the weight of the pigment granules. Accordingly, withdrawal of this objection is respectfully requested.

Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

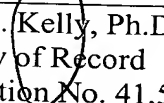
Respectfully submitted,

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